

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 3:11cv444
[CRIMINAL CASE NO. 3:08cr207]**

CHARLES D. HARRISON,)
)
 Petitioner,)
)
 vs.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)
 _____)

ORDER

THIS MATTER is before the Court on Petitioner's Motion for Reconsideration [Doc. 7].

Petitioner moves the Court for reconsideration of its October 4, 2011 Order denying his motion to vacate pursuant to 28 U.S.C. § 2255. [Doc. 7]. Subsequent to the entry of the Order dismissing his motion to vacate, and prior to filing the present motion for reconsideration, Petitioner filed a notice of appeal to the Fourth Circuit Court of Appeals. [Doc. 5]. The filing of a notice of appeal divests the District Court of jurisdiction of the case and confers jurisdiction upon the Court of Appeals. United States v. Christy, 3 F.3d 765, 767 (4th Cir. 1993). As such, the Court lacks jurisdiction to consider Petitioner's Motion for Reconsideration.

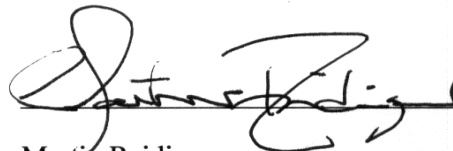
Pursuant to Rule 11(a) of the Rules Governing Section 2255 Proceedings for the United States District Courts, this Court declines to issue a certificate of appealability as Petitioner is unable to make a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336-38, 123 S.Ct. 1029, 154 L.Ed.2d 931 (2003) (holding that in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong) (citing Slack v. McDaniel, 529 U.S. 473, 120 S.Ct. 1595, 146 L.Ed.2d 542 (2000)).

Accordingly, **IT IS, THEREFORE, ORDERED** that Petitioner's Motion for Reconsideration [Doc. 7] is **DISMISSED**.

IT IS FURTHER ORDERED that the Court declines to issue a certificate of appealability.

IT IS SO ORDERED.

Signed: December 12, 2011


Martin Reidinger
United States District Judge

